

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ERIC ROGERS,

Plaintiff,

-v.-

1567 LEXINGTON LLC and 1567 LEX
CAFÉ CORP.,

Defendants.

19 Civ. 9697 (KPF)

DEFAULT JUDGMENT

KATHERINE POLK FAILLA, District Judge:

NOW THEREFORE, this action having been commenced on October 21, 2019, by the filing of the Summons, civil cover sheet and Complaint, and a copy of the same having been served through the Secretary of State on the Defendant 1567 Lex Café Corp. d/b/a Effy's Kitchen ("Defendant"), on October 30, 2019, respectively; and proof of service having been filed on November 18, 2019, and the Defendant not having answered the Complaint, and the time for answering the Complaint having expired, it is

ORDERED, ADJUDGED AND DECREED: That the Plaintiff have judgment against the Defendant, to remove architectural barriers as follows:

- a. Provide an accessible entrance and install a ramp with appropriate slope and signage, and/or otherwise provide an accessible and properly designated entrance.
- b. Provide signage addressing people with disabilities telling them that accessible services are provided.
- c. Modify cashier/service counter to be accessible.

- d. Provide a safe and accessible emergency exit.
- e. The injunctive relief provided must be in accordance with city, state, and federal laws including 28 CFR Part 36, § 36.304 which provides instructions for the removal of barriers in existing facilities, as well as the 2010 ADA Standards for Accessible Design, which provides minimum requirements for public accommodations to become readily accessible and useable by individuals with disabilities.

Pursuant to 42 U.S.C. §12188, this Court is vested with the authority to grant the Plaintiff's injunctive relief; including an order to alter the Premises to make them readily accessible to, and useable by, individuals with disabilities to the extent required by the American with Disabilities Act ("ADA"), the New York City Human Rights Laws ("NYCHRL"), and the New York State Human Rights Law ("NYSHRL"), and closing the Premises until the requisite modifications are completed.

Further, that the Plaintiff be awarded not less than one thousand dollars (\$1,000) in compensatory damages based on the Defendant's violation of the NYCHRL and the NYSHRL; the Defendant to comply with terms of the Final Judgment within sixty (60) days of the entry of the judgment; and this Honorable Court retain jurisdiction relating to the Plaintiff's attorneys' fees and said motion shall be filed within ninety (90) days of entry of this Final Judgment.

Pursuant to 28 C.F.R. § 36.201(b), both the landlord and the tenant are a public accommodation and have full responsibility for complying with the ADA requirements. Therefore, assuming the Court later finds that Defendant 1567 Lexington LLC is liable for the alleged violations of the ADA, NYSHRL, and NYCHRL, Defendants would be jointly and severally liable.

SO ORDERED.

Dated: August 11, 2020
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

KATHERINE POLK FAILLA
United States District Judge